

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MICHAEL ALLAN CLARK,

Petitioner,

vs.

DWIGHT NEVEN, et al.,

Respondents.

Case No. 2:11-CV-00585-KJD-(LRL)

ORDER

Before the court is petitioner's unopposed motion for relief from judgment and order pursuant to Federal Rules of Civil Procedure 60(b) and 62.1 (#22) and respondents' response (#23).

Because this action is on appeal, this court lacks authority to grant the motion, but it may:

(1) defer considering the motion;

(2) deny the motion; or

(3) state either that it would grant the motion if the court of appeals remands for that purpose or that the motion raises a substantial issue.

Fed. R. Civ. P. 62.1(a).

The court directed petitioner, proceeding pro se, to file an amended petition that complied with Rule 2 of the Rules Governing Section 2254 Cases in the United States District Courts; the original petition (#6) contained cross-references back and forth throughout the petition, legal argument, and a press release. Order (#5). Petitioner filed nothing in the allotted time, not even a motion for enlargement of time, and the court dismissed the action. Order (#9). Petitioner appealed. He then filed a motion for permission to file an amended petition (#16). The court

1 denied that motion because petitioner proposed a procedure that would have been even more
2 confusing than the original petition (#6). The court is inclined to grant the current motion (#22)
3 only because counsel now represents petitioner and respondents do not oppose it.

4 IT IS THEREFORE ORDERED that the court would grant the motion for relief from
5 judgment and order pursuant to Federal Rules of Civil Procedure 60(b) and 62.1 (#22) if the court of
6 appeals remands for that purpose.

7 DATED: August 3, 2012

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10 KENT J. DAWSON
11 United States District Judge
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